

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

PATRICK L. MARTINEZ,

Plaintiff,

vs.

No. CIV 06-178 JP/LCS

CITY OF ALBUQUERQUE, PETE L.  
DINELLI, DEPUTY CITY ATTORNEY,  
DONALD F. HARRIS, ASSISTANT  
CITY ATTORNEY, JOE MARTINEZ,  
APD POLICE INSPECTOR,

Defendants.

MEMORANDUM OPINION AND ORDER

On April 18, 2006, Defendant City of Albuquerque filed Motion and Memorandum in Support of Defendant City of Albuquerque's Motion to Dismiss (Doc. No. 5). Plaintiff has not filed a response in opposition to the motion to dismiss within the time permitted by the rules of this Court. D.N.M.LR-Civ. 7.6(a). Consequently, Plaintiff is deemed to have consented to the granting of the motion. D.N.M.LR-Civ. 7.1(b). In addition, the Court has determined that the motion should be granted on its merits. It is clear from the allegations in the Plaintiff's complaint combined with the documents attached to the Plaintiff's complaint that Plaintiff's claims are barred by a three-year statute of limitations. In New Mexico, the applicable statute of limitations is for personal injury actions and is for a period of three years. N.M.S.A. 1978 § 37-1-8 (2006). For actions brought under 42 U.S.C. § 1983, federal courts must apply the most analogous state law statute of limitations. The attachments to Plaintiff's complaint indicate that the actions taken by Defendant City of Albuquerque of which Plaintiff complains occurred on February 7, 2003. Because Plaintiff did not file his complaint until more than three years later on March 7, 2006, the state three-year statute of limitations bars his claims against the City of Albuquerque.

IT IS THEREFORE ORDERED THAT:

1. Defendant City of Albuquerque's Motion and Memorandum in Support of Defendant City of Albuquerque's Motion to Dismiss (Doc. No. 5) is granted; and
2. The claims of Plaintiff Patrick L. Martinez against Defendant City of Albuquerque are dismissed with prejudice.

  
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SENIOR UNITED STATES DISTRICT JUDGE